

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil No. 11-1072

2011 GMC DENALI
VIN:1GKS2EEF3BR177397,

2004 NISSAN ARMADA
VIN: 5N1AA08A84N740012,

Defendants,

and

ISABEL C. GUTIERREZ,
JP MORGAN CHASE BANK NA, AND
BANK OF THE WEST,

Claimants.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

Plaintiff states:

JURISDICTION AND VENUE

1. This is a civil action *in rem* for forfeiture of Defendants which have been located and will be arrested by execution of a Warrant for Arrest in the District of New Mexico; and during the pendency of this action Defendants, or their equivalent or proceeds thereof, will be subject to the jurisdiction of this Court.

2. The United States District Court for the District of New Mexico has exclusive, original jurisdiction under 28 U.S.C. §§ 1345, 1355 and 1356.

3. Venue is proper under 28 U.S.C. §§ 1355 and 1395.

4. The "res" or Defendant Property which is the subject of this action are:

- (a). a 2011 GMC MPV VIN:1GKS2EEF3BR177397, and
- (b). a 2004 Nissan VIN:SN1AA08A84N740012,

(hereafter referred to as "Defendant Vehicles").

PARTIES AND CLAIMANTS

5. The following persons may claim an interest in Defendant Vehicles:

- (a). Isabel C. Gutierrez at P.O. Box 708, Columbus, NM 88029 and/or 201 S. Taft St., Columbus, NM 88029;
- (b). JP Morgan Chase Bank NA at P.O. Box 901098, Fort Worth, TX 76101;
- (c). Bank of the West at P.O. Box 8160, Walnut Creek, CA 94597.

STATEMENT OF FACTS

6. On March 8, 2011, eleven defendants were indicted in an 84-count indictment for violating 18 U.S.C. § 371 (Conspiracy), 18 U.S.C. § 924(a)(1)(A) (False Statements in Connection With the Acquisition of Firearms), and 18 U.S.C. § 554 (Smuggling Goods from the United States). *See United States v. Ignacio Villalobos, et. al.*, USDC D.N.M. Criminal No. 11CR487 RB at Doc. 2.

7. On March 10, 2011, agents from the Homeland Security Investigations (HSI), Customs and Border Protection (CBP), CBP Air and Marine, Bureau of Alcohol Tobacco Firearms and Explosives (ATF), Drug Enforcement Administration (DEA), and New Mexico State Police arrested ten of the defendants in Columbus, New Mexico, and Las Cruces, New Mexico: Village of Columbus Police Chief Angelo Vega, Columbus Mayor Eddie Espinoza,

Columbus Trustee Blas Gutierrez, Ian Garland, Alberto Rivera, Miguel Carrillo, Ricardo Gutierrez, Manuel Ortega, Eva Gutierrez and Vincente Carreon.

8. Also on March 10, 2011, the Defendant Vehicles (2011 GMC and 2004 Nissan), cash, and firearms were seized during the execution of nine federal search warrants.

9. On August 1, 2011, Blas Gutierrez pleaded guilty to multiple counts of the indictment for violating 18 U.S.C. § 371 (Conspiracy), 18 U.S.C. § 924(a)(1)(A) (False Statements in Connection With the Acquisition of Firearms), and 18 U.S.C. § 554 (Smuggling Goods from the United States). *See* 11CR487 at Doc. 180, Clerk's Minutes of change of plea hearing.

10. Blas Gutierrez stated that he used both Defendant Vehicles on multiple occasions to purchase firearms and/or further the trafficking of firearms in New Mexico, which was confirmed by camera and ground surveillance. Blas Gutierrez alternated among the two Defendant Vehicles and a third vehicle in an attempt to conceal his illegal activities.

11. Blas Gutierrez also stated that he used Defendant 2004 Nissan to assist in the purchase and transportation of firearms from January 2010 to the time of his arrest.

12. The Defendant 2004 Nissan was stopped on January 14, 2010, by U.S. Border Patrol. It contained eight firearms. These firearms were later found in Mexico in March 2010 at a crime scene.

13. Isabel C. Gutierrez is the mother of Blas Gutierrez.

14. A co-conspirator stated that Isabel Gutierrez was aware of her son's activities and continued to allow him to use the Defendant Vehicles.

15. JP Morgan Chase Bank NA may have a lien interest in the 2011 GMC.

16. Bank of the West may have a lien interest in the 2004 Nissan.

CLAIMS FOR RELIEF

17. Defendant Vehicles are subject to arrest and forfeiture to Plaintiff under 18 U.S.C. § 981(a)(1)(A) because the vehicles were involved in a transaction or attempted transaction in violation of 18 U.S.C. § 1956 or are property traceable to such property.

18. Defendant Vehicles are subject to arrest and forfeiture to Plaintiff under 18 U.S.C. § 981(a)(1)(A) because the vehicles were involved in a transaction or attempted transaction in violation of 18 U.S.C. § 1957 or are property traceable to such property.

WHEREFORE, Plaintiff seeks arrest of Defendant Vehicles and forfeiture of same to Plaintiff, determination of the validity and priority of claims of the Claimants and any Unknown Claimants to the Defendant Vehicles, costs and expenses of seizure and of this proceeding, and other proper relief.

Respectfully submitted,

KENNETH J. GONZALES
UNITED STATES ATTORNEY



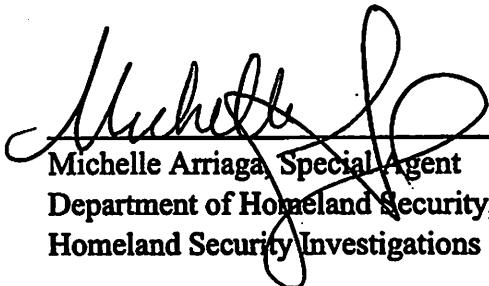
STEPHEN R. KOTZ
CYNTHIA L. WEISMAN
Assistant U.S. Attorneys
P.O. Box 607
Albuquerque, New Mexico 87103
(505) 346-7274

28 U.S.C. § 1746 DECLARATION

I am an Special Agent with the Department of Homeland Security, Homeland Security Investigations, who has read the contents of the Complaint for Forfeiture In Rem to which this Declaration is attached; and the statements contained in the complaint are true to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that this Declaration is true and correct, except as to matters stated on information and belief, and as to those matters I believe them to be true.

DATED: 12/7/2011



Michelle Arriaga, Special Agent
Department of Homeland Security,
Homeland Security Investigations